

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR RULE ADOPTION**

AGENDA # III.B.1.

AGENDA ITEM SUMMARY - The department requests approval of amendments to the public water supply rules to:

1. Amend Department Circular DEQ-1 to revise the requirements set forth with the newest applicable standards;
2. Amend existing rules related to the review fees associated with the proposed changes to DEQ-1;
3. Adopt existing Department policies dealing with “Certified Water Main Checklists” and “Certified Sewer Main Checklists”;
4. Adopt a requirement that an inactive project must submit a complete re-submittal after 1 year of inactive status;
5. Adopt a requirement that no plan or specification can be approved that places an existing approved system in violation;
6. Amend existing rules to clarify: the requirement for when a professional engineer is required; the use of “standard plans and specifications”; when fees must be paid; disinfection requirements; and revise edition dates in 17.36.345 Adoption by Reference; and
7. Adopt new rule to allow the use of the small system compliance technologies, as described in the federal rules, for radionuclides.

LIST OF AFFECTED RULES) - ARM 17.38.101, 106, 208, and 229 and ARM 17.36.345

AFFECTED PARTIES SUMMARY – Owners of all public water supply and public sewage systems. Examples of these systems include cities, towns, water and sewer districts, subdivisions, mobile home parks, businesses and schools. These changes will also affect any other “person” that may modify a public water or wastewater system. Examples include engineers, contractors, water treatment installers, and well drillers.

SCOPE OF PROPOSED PROCEEDING - The Department is requesting initiation of rulemaking and appointment of a hearing officer for a public hearing.

BACKGROUND – Department Circular DEQ-1 describes the construction standards to which community water systems must adhere. The current version of DEQ-1 is based on the 1982 edition of “Ten State Standards”, with minor revisions in 1999. Generally excepted construction standards have evolved greatly in the last 20 years and so in 2003 the Ten State Standards were updated. Included in those updates are new technologies that may solve various issues for public water supplies, but that are

not currently approved by the BER.

The Department, through policy, utilizes “checklists” for water and sewer main extensions. These checklists give an existing system credit for the part of the system that has been previously approved and only require submission of basic information for the parts that are to be extended. This process greatly reduces the amount of time and money required to get these extensions approved. The Department wishes to officially adopt that policy into the rules.

The Department wishes to add new policies to DEQ-1 for the use of Ultra-violet (UV) disinfection and the use of non-centralized Point-of-Use (POU) and Point-of-Entry (POE) units. The use of non-centralized treatment is allowed under the Safe Drinking Water Act and Montana Public Water Supply law and rules, but there currently exists a void in detailing how and when they may be appropriate. These policies will work to allow systems to consider these less expensive options under the correct circumstances.

The Department is proposing to set a time limit for projects in an “inactive” status. Inactive status is defined as a submission that has had no real progress for 1 year after the Department sends a denial letter. Currently, a submission can sit with no progress for as long as the applicant wishes. In the mean time, standards, requirements, and even fees can change.

The Department wishes to adopt a rule that would allow the department to deny a submission because it places an existing approved system in violation. Although this seems self-evident as the very nature of the requirement for plan and specification review is to ensure that the proposed system is capable of meeting the primary drinking water regulations, a legal opinion has determined that the current rules do not allow the Department to deny an application for the sole reason that the proposed system would place an existing system in violation.

The Department wishes to adopt the small system compliance technologies listed in the federal rule designed to assist small systems to meet the regulatory requirements for the radionuclides rule.

The other revisions are necessary to provide consistency and clarity in implementation and enforcement of existing rules with existing statutory requirements.

HEARING INFORMATION – No hearings have been held.

BOARD OPTIONS - The Board may:

1. Initiate rulemaking, appoint a hearing officer, and schedule a hearing;
2. Determine that the adoption of rules is not appropriate and decline to initiate rulemaking; or
3. Direct the Department to modify the rulemaking and proceed.

DEQ RECOMMENDATION – The Department recommends initiation of rulemaking and appointment of

a hearing officer for a public hearing.

Enclosures:

1. DEQ-1 Fact Sheet
2. Notice of public hearing on proposed amendment of ARM 17.38.101 through 17.38.239 pertaining to public water and sewage system requirements and ARM 17.36.345 to correct Adoption by Reference cites.